

**WIA Eligibility  
Guidelines  
Selective Service  
Registration  
*Desk Reference***

## SELECTIVE SERVICE REGISTRATION

Section 189(h) [20 C.F.R. §667.250] amendments to the Workforce Investment Act (WIA) requires that a determination of Selective Service registration status be made prior to enrollment in WIA-funded activities and services. Only those male job seekers in compliance with the registration requirements of the Military Selective Service Act (MSSA, 50 U.S.C. App. 453), as amended, are eligible to participate in WIA-funded activities and services.

Every male citizen between 18 and 26 years of age, and every other male of like age legally residing in the United States, is required to register with the Selective Service System (SSS). Section 189(h) of WIA requires the secretary of labor to ensure that individuals participating in WIA activities and services, or receiving assistance under WIA, have not violated these MSSA requirements. The director of the SSS and the secretary of labor also are required to cooperate in carrying out these provisions.

In 1986, MSSA was amended by Public Law 99-661, §1366, to require an individual's registration status to be examined and confirmed as follows:

- (g) *A person may not be denied a right, privilege, or benefit under federal law by reason of failure to present himself for and submit to registration under Section 3 [50 U.S.C. App. 453] if:*
- (1) *the requirement for the person to so register has terminated or become inapplicable to the person; and*
  - (2) *the person shows by a preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register.*

SSS has determined that final decisions on disbursement of federally financed domestic benefits, services, rights, or training rest solely with the various provider agencies that disburse them. In the case of WIA, Local Workforce Development Boards (Boards) are the provider agencies.

Boards and Texas Workforce Centers are responsible for determining eligibility for services or benefits on a case-by-case basis.

1. Individuals who are required to register (males between the ages of 18 and 26) but have not registered, and have not yet reached their 26th birthdays, must complete their military Selective Service registration 30 days prior to or 30 days after their 18th birthday to continue receiving WIA services.
2. Any male 26 years of age or older who did not register for Selective Service is presumed to be disqualified from participation in WIA-funded activities and services. The job seeker must provide evidence explaining why he failed to register with SSS. Evidence may include the job seeker's written explanation—along with supporting documentation—of his circumstances at the time of the required registration and the reasons for failure to register.

Texas Workforce Center staff should evaluate the evidence presented by the job seeker and determine whether failure to register with SSS is consistent with the amendment to Public Law

99-661, §1366. If Texas Workforce Center staff determines that failure to register was not a knowing and willful failure, and the job seeker is otherwise eligible, services may be granted. If the evidence shows that the job seeker's failure to register was knowing and willful, WIA services must be denied.

*Note:* Applicants denied services must be advised of available WIA grievance procedures. Board decisions may be appealed to the State (see number 6 in the "Application of WIA Selective Service System Registration Requirements to Male Applicants 26 Years of Age or Older").

## **Application of WIA Selective Service System Registration Requirements to Male Applicants 26 Years of Age or Older**

WIA requires that WIA providers determine a job seeker's Selective Service registration status *before* delivering services. The amendments state that services must be denied to a male applicant 26 years of age or older who knowingly and willfully failed to register.

The state requires Texas Workforce Centers, and any entity that determines eligibility, to thoroughly review a job seeker's nonregistration status with SSS. Effective immediately, the Texas Workforce Center or other entity determining eligibility must use the following guidelines to establish whether the job seeker has complied with the SSS requirement:

1. Determine whether the male applicant served on active duty in the military and was discharged. Appropriate documentation includes a copy of the job seeker's military discharge (Form DD-214) for the intake record. Reserve duty and National Guard service are not acceptable for eligibility.
2. Evidence that the job seeker was institutionalized or outside of the U.S. for the entire period from before his 18th birthday to after his 26th birthday may include discharge papers from the institution or travel documents showing the individual was out of the country. These may be considered evidence that failure to register with SSS was not willful or knowing.
3. Eligible noncitizen males who entered the U.S. on or after attaining their 26th birthdays are exempt from Selective Service registration requirements. Immigration and Naturalization Service (INS) Form I-94 (Arrival/Departure Record) and INS Form I-551 (Alien Registration Receipt Card, aka "green card") shows the birth date of the eligible noncitizen.
4. INS grants legal status and employment authorization to some lawful seasonal agricultural workers (SAWs) and formerly illegal noncitizens under the 1986 Immigration Reform and Control Act (IRCA). Male noncitizens 26 years of age or older who entered the U.S. illegally and who were subsequently granted legal status by the INS (IRCA-legalized aliens), or were born on or after January 1, 1960, but are not registered with the SSS, may be enrolled in WIA only if the job seeker provides evidence that he did not knowingly or willfully fail to register. The job seeker, if otherwise eligible, then may be enrolled in WIA activities. Boards must ensure the determination is made as described above.
5. Third-party affidavits from parents, teachers, employers, doctors, etc., may also help to determine the question of whether or not failure to register with the SSS was willful and knowing.
6. WIA regulations provide a system for handling grievances, complaints, hearings, and appeal rights. Specific procedures are developed at the local and state levels in accordance with WIA provisions and regulations at 20 C.F.R. §667.600. Under WIA, the state is responsible for ensuring that there is a process in place to handle WIA grievance and appeals filing at the

local level. If an individual does not receive a decision at the local level within 60 days of filing a complaint or grievance, or is dissatisfied with the decision, he has the right to request a review of his case by the state. Please note that under federal rules, the state's decision is final.

Military Selective Service amendments require all male U.S. citizens (regardless of where they live), and male immigrants residing in the United States (permanent resident noncitizens), to register within 30 days of their 18th birthday. Male applicants who enter the WIA program at age 17 or younger and attain age 18 while participating in the program must be registered for Selective Service by the 30th day after their 18th birthday to remain eligible for WIA services. Funds expended on male participants not registered for Selective Service by the 30th day after their 18th birthday may be considered disallowed costs.

Boards and Texas Workforce Centers may serve male applicants 26 years of age or older who did not knowingly and willfully fail to register. Boards must develop policy and procedures for handling case-by-case situations (as mentioned above) to conform to WIA guidance for this job seeker population. The Texas Workforce Center or entity determining eligibility will carry out this local policy. (See table—Who Must Register for Selective Service?—below.)

*Note:* If the Texas Workforce Center or entity responsible for determining eligibility finds that the job seeker knowingly and willfully failed to register with SSS, they must issue a statement to that effect. That statement must be kept in the job seeker's file.

Texas Workforce Center staff must be aware of their duty to determine—on a case-by-case basis—whether a job seeker has shown that failure to register was not deliberate disregard of the law.

If Texas Workforce Center staff determines that a job seeker's failure to register was not willful and knowing, an otherwise eligible male may then be enrolled in WIA activities and services.

If Texas Workforce Center staff determines a job seeker's failure to register was knowing and willful, that job seeker may not be enrolled in WIA activities and services.

## WHO MUST REGISTER FOR SELECTIVE SERVICE?

CATEGORY	YES	NO
All male U.S. citizens who have attained 18 years of age but are not yet 26 years old, except as noted below:	<b>X</b>	
<b>Military-related</b> Members of the armed forces on Active Duty (Active Duty for training does not constitute <i>Active Duty</i> for registration purposes.)		<b>X*</b>
Cadets and midshipmen at service academies or the Coast Guard Academy		<b>X*</b>
Cadets at the Merchant Marine Academy	<b>X</b>	
Students in Officer Procurement Programs at The Citadel, North Georgia College and State University, Norwich University, Virginia Military Institute, Texas A&M University, and Virginia Polytechnic Institute and State University		<b>X*</b>
National Guardsmen and Reservists not on active duty	<b>X</b>	
Delayed Entry Program enlistees	<b>X</b>	
Reserve Officer Training Corps students	<b>X</b>	
Separatees from active military service, separated for any reason before age 26	<b>X*</b>	
Men rejected for enlistment for any reason before age 26	<b>X</b>	
Civil Air Patrol members	<b>X</b>	
<b>Aliens**</b> Lawful, eligible noncitizens on visas (e.g., diplomatic and consular personnel and families, foreign students, tourists with unexpired forms I-94, I-95A, or Border Crossing Documents I-185, I-186, I-586, or I-444)		<b>X</b>
Permanent resident aliens	<b>X</b>	
Special (seasonal) agricultural workers (I-688)	<b>X</b>	
Special agricultural workers (I-688A)		<b>X</b>
Refugee, parolee, and asylee noncitizens	<b>X</b>	
Undocumented (illegal) aliens	<b>X</b>	

Dual national U.S. citizens	<b>X</b>	
<b>Confined</b> Incarcerated, hospitalized, or institutionalized for medical reasons		<b>X*</b>
<b>Disabled physically or mentally</b> Able to function in public with or without assistance	<b>X</b>	
Continually confined to a residence, hospital, or institution		<b>X</b>

\* MUST register within 30 days of release unless already age 26, already registered when released, or exempt during entire period age 18 through 25.

\*\* Residents of Puerto Rico, Guam, Virgin Islands, and Northern Mariana Islands are U.S. citizens. Citizens of American Samoa are nationals and must register when they are habitual residents in the United States. Habitual residence is presumed whenever a national, or a citizen of the Republic of the Martial Islands or the Federated States of Micronesia, resides in the United States for more than one year in any status, except as a student or employee of the government of his homeland.

**REFERENCE:**

Workforce Investment Act §189(h)

U.S. Department of Labor Training and Employment Guidance Letter 8-98, issued November 4, 1998

Military Selective Service Act, 50 U.S.C. App. 453, as amended (§3)